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# DIGEST OF WATER POLLUTION CONTROL LEGISLATION... NEW MEXICO

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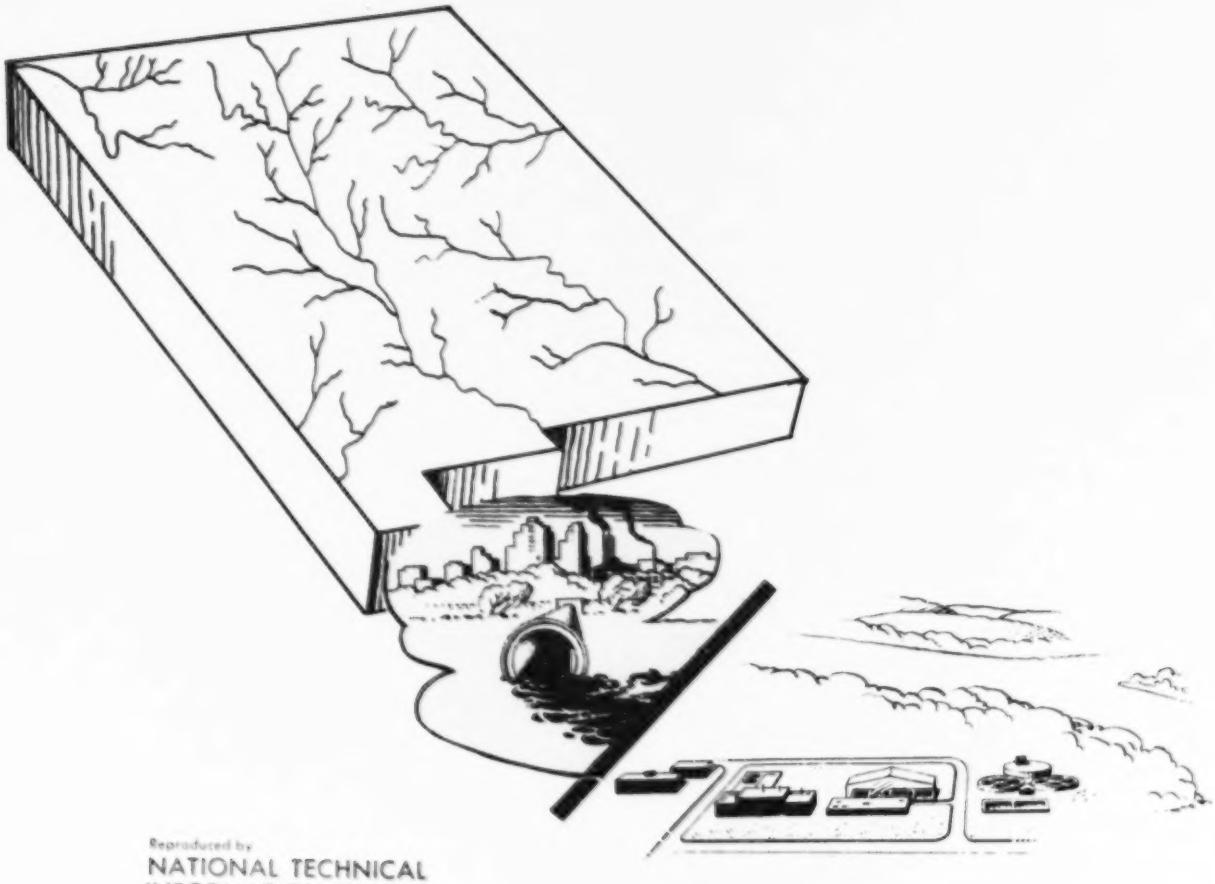

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U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

September 1958

# DIGEST OF NEW MEXICO WATER POLLUTION CONTROL LEGISLATION

## I. GENERAL STATEMENT

The State Board of Public Health has the primary function of controlling water pollution. It establishes policies, rules and regulations for the State Department of Public Health (Sec. 12-1-6)1/.

An Act passed in 1957 appropriated the sum of $150,000 to be used by the State Department of Public Health during the next two fiscal years for the purpose of making grants to associations formed in rural, unincorporated communities to provide facilities for the development of sanitary domestic water supply, sewage works, or both (Laws of New Mexico, 1957, Ch. 122).

The Oil Conservation Commission is authorized to make rules and regulations for, among other things, the prevention of pollution of waters from oil and gas wells (Sec. 65-3-11).

The State Game Commission is authorized to make rules and regulations for, among other things, the protection of game and fish (Sec. 53-1-11). It is further authorized to protect spawning waters, or to prevent undue depletion of the fish (Sec. 53-1-8).

## II. ADMINISTRATIVE ORGANIZATION

### A. State Department of Public Health

#### 1. Composition

The Department is created by the State Board of Public Health and consists of a Director of Public Health, and such other officers and employees as may be authorized (Sec. 12-1-2).

#### 2. Powers and duties

The Department is charged with the supervision of the health of the people of the State. Among other things, it is authorized

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1/-Citations in this digest refer to the New Mexico Statutes Annotated (1953) and the 1957 Supplement thereto, unless otherwise noted.

to abate nuisances, regulate drainage, water supply, sewage and water disposal; establish, and enforce rules and regulations (Sec. 12-1-4).

B. State Board of Public Health

1. Composition and organization

The Board consists of five members appointed by the Governor, with the consent and advice of the Senate, who are selected upon the basis of recognized interest in and knowledge of public health; it includes one member who is a registered pharmacist. All appointments are for six years, except as to those first appointed. The Board elects from its membership a Chairman, Vice-Chairman and Secretary. It convenes at the call of the Chairman or the majority of the Board. It appoints a Director of Public Health who must be a doctor of medicine, licensed or eligible for license in the State with recognized experience and special training in sanitary science and public health administration. The Director is the administrative head of the Department (Secs. 12-1-5, 12-1-7).

2. Powers and duties

The Board establishes all policies, rules and regulations for the Department, and supervises the Director in his discharge of all duties. It is authorized to hold hearings on appeal, make annual reports to the Governor on the condition of the public health, and recommend needed legislation. It makes and enforces such rules and regulations as are necessary to carry out its functions (Sec. 12-1-6, 12-1-14). Rules, regulations and orders of the Board must be published in the following manner:

(1) those having general application throughout the State must be published once in some newspaper published and having general circulation in the State; (2) those of general or special character having local application only must be published once in some newspaper published in the locality wherein such rules, regulations and orders are applicable; however, if no such newspaper is so published a copy of such rules, regulations and orders must be posted in three conspicuous places in the locality in which applicable; (3) those applicable to particular cases only must be posted once in a conspicuous place upon or near the premises affected or served personally or by registered mail upon the party affected (Sec. 12-1-16). The Board also has the power to regulate, among other things, drainage, water supply, sewage and waste disposal (Sec. 12-1-13). Violation of the rules and regulations of the Board carries a fine and/or imprisonment (Sec. 12-1-17).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

It is unlawful to deposit offal, or the carcass of any animal or other refuse matter within 500 yards of any body of water used for drinking purposes. Violation is a misdemeanor (Sec. 40-35-9).

It is a misdemeanor to bathe in or wilfully cast any filth in any reservoir the water of which is used for domestic purposes (Sec. 40-35-10).

It is unlawful to cast the dead body of any animal or fowl or any refuse matter into any running stream, spring, reservoir or watercourse, or to run or empty any sewer or other foul substance into the same or in any other manner pollute such waters

so as to render it offensive or dangerous to the health of the inhabitants of any community or of any person having the right to use the same for drinking or domestic purposes or so as to render such waters unfit for watering stock. The polluting of the waters in the manners specified herein is a public nuisance. In addition to the fine and/or imprisonment which may be imposed for a violation of this section, the court may direct the sheriff or constable to remove such nuisance at the expense of the person creating it (Secs. 40-35-11, 12, 13).

It is unlawful for anyone wilfully to poison any spring, well or reservoir of water (Sec. 40-6-11).

All pipe lines carrying oil, natural gas or their products which pass through or over streams, stream beds or bodies of water must be so constructed, maintained and operated as not to pollute such waters (Sec. 65-4-5).